SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Madam, the more problematic area is the parking place. That is, a lot of vehicles would be there at the stations. Workers would leave their two-wheelers at the station and would catch the Metro to reach to their workplaces. But there is no place for the vehicles, as of now. Even after the passage of the Bill, I would like the Minister to take this into consideration, making more parking place available.

THE DEPUTY CHAIRMAN: Now we shall take up the Statutory Resolution, the Securities and Exchange Board of India (Amendment) Ordinance, 2002 and the Bill. We will discuss these two together. Mr. Prithviraj Chavan.

STATUTORY RESULATION

SEEKING DISAPPROVAL OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (AMENDMENT) ORDINANCE, 2002

AND

THE SECURITIES AND EXCHANGE BOARD OF INDIA (AMENDMENT) BILL, 2002

SHRI PRITHVIRAJ CHAVAN (Maharashtra): Madam, I beg to move:

"That this House disapproves the Securities and Exchange Board of India (Amendment) Ordinance, 2002 (No. 6 of 2002) promulgated by the President on the 29th October, 2002."

Madam, first of all we have a serious objection to the way the Government is bringing financial legislations through the Ordinance route. As many as six Ordinances have been promulgated just a few days before the summons for the Parliament Session were issued. In this particular case, the Parliament was summoned on 31st October; and the Ordinance came just two days before, on 29th October. In fact, the Cabinet had decided to summon the Parliament on 18th November itself. Knowing fully well that the Parliament was going to be summoned, still, the Government went ahead and promulgated the Ordinances, very important legislations, like the SEBI Bill, the UTI Bill and the Bill that we just passed.

Everybody has gone into this aspect. Many Hon' Speakers, right from late Shri Mavalankar, have, in absolute terms, castigated the Government's bringing legislation through Ordinances. I will not take the time of the House and quote what has been said, but I take strong objection to this practice, not only legislations by Ordinances, but also,

bypassing the scrutiny by the Standing Committee. In fact, what happens is, since the Government hurries it up because of urgency, it is not properly examined. In the Standing Committees, we get some time to talk to experts, get evidence on record and then give our suggestions. That is not possible because it is not being referred to a Standing Committee. I hope, in the future, the Government will not resort to the route of Ordinances, in regard to important financial legislations.

Madam, having said that, it was in 1992 that the Government legislated the SEBI Act. It was one of the pillars of the economic reforms, which was brought in to promote and regulate capital markets. It certainly brought in some discipline, but, in spite of the SEBI, we didn't achieve the purpose for which it was enacted. We have had a number of frauds. I shall not take the time of the House recounting how many security market scams have taken place, including that of the infamous Harshad Mehta Scam, which was inquired into by the JPC. The JPC had made very important recommendations. Still we had a series of scams after that. My second problem with this legislation is: Why this delay? When the Government wake up that the SEBI needed to be empowered, that SEBI needed to be strengthened, it had to have teeth, it was not effective in dealing with frauds or corporate frauds, stock market frauds, the securities frauds, the JPC had very clearly said in its report that the SEBI needs to be empowered and strengthened. Why is this delay of ten years? Why is this delay of almost five years since this Government came to power? Then all of a sudden you wake up one morning and issue an Ordinance. If you had brought this legislation two or three or four or five years back, we could have got an opportunity and maybe some of the scams could have been avoided. My third problem with this legislation is that the Government is treating this business in a very *ad hoc* and piecemeal fashion. There are so many pending issues and unanswered areas that you need to address, you need to legislate and you need to clearly define the responsibilities. I will come to some of those areas. I am unhappy with this whole approach. We need to take steps to revive the capital market. The capital market is down in the dumps. We know the indices. There is a need also to avoid frauds so that investors are protected, they have the confidence in the capital market and they go back. There is also a need for an efficient and transparent working of the regulator. Without an efficient, transparent, statutory and autonomous regulator, no system of open economy or free market would work. This is going to be a pillar of the basis of economic reforms and free market. Before I come to my problems with the areas which have not been addressed, I will refer to two or three areas specifically in the Bill. By and

large, the Bill is welcome. What has been done is good. More needs to be done. That is our worry and that is why we are opposing. We are not very happy. The specific section I have been able to find out - maybe, the Minister can clarify - on the Appellate Tribunal. We are now increasing the number of members in the Appellate Tribunal from one to three. You have made a provision that till the three-member Tribunal is constituted, the one-member Tribunal will continue to function. But I have problems and nowhere could I find what happens if one of the three members of the Tribunal resigns and there are only two members and the Government, as usual does not appoint this member in time. Would the two-member tribunal, still be functioning or would it stop functioning? Kindly clarify it. The number of members in the SEBI has been increased from six to nine. Good, maybe, specific responsibility, regional responsibilities could be assigned and we support that. But one hopes that this will not be used to pack the SEBI with former bureaucrats. I hope the Government will professionalise SEBI with the professionals who have put in 20 years of their life in this field. It is a very specialised area. Generally, civil service officers, while they are very important and they have wide knowledge and experience, but they cannot continue these institutions like they have been running. There is also a slight problem about the mention of the investigative agency. When the SEBI is to inquire into something, they would appoint some officers as the investigative agency. This has not been properly defined. It should be clarified. Madam, now I again come back to the main concern why we are worried about this legislation because so many areas are not being addressed. When will you wake up? Some more scams to happen! First of all, I have problems about overlapping jurisdiction. The SEBI is supposed to regulate the capital market. There, as it exists now, is also the Company Law Board which is going to look into the corporate areas and you are now proposing to change that body into a National Company Law Tribunal and the National Company Law Appellate Tribunal. That Bill is pending before the Parliament. In due course, we will discuss that Bill also. We have serious problems on the size - sixty-two Members - of the Tribunal and we do not know what SEBI would do and what this Tribunal would do. There is no clear demarcation of areas.

Now I come to the issue of auditors. Many frauds have taken place because the auditors have failed to discharge their responsibility. What is the role of the Institute of Chartered Accountants of India? Would that be a separate body looking at auditors or would SEBI has some role to play? Then, there is a role for the RBI, which has come into picture. I can give you one example. The RBI puts limit on borrowing against shares. It

is an area, which, probably, should fall under the SEBI. That is the very crucial area for the revival of the stock market. I request the hon. Minister to kindly look at the possibility of overlapping jurisdiction - between the proposed Company Law Tribunal and the SEBI.

There is a pending issue about the structure of the stock exchanges - de-mutualisation of stock exchanges. This issue is hanging fire for so many years. There has been the Kania Committee Report. I think, you have made a statement in the other House and outside that you are going to do it. When are you going to do it? The Report has been lying there for a very long time. How much more time would you require to analyse the Report and accept the Report or reject it? But, whatever you do, I hope, you will do it fast and also I hope that you will not allow one of the stock exchanges to die. There needs to be a competition between the National Stock Exchange and the existing Bombay Stock Exchange. I think the stockbrokers agree with the Kania Committee Report and, I think, the Government should immediately take a decision on de-mutualisation.

Madam, there are other issues about corporate governance. There is a Committee of SEBI. The Kumaramangalam Birla Committee has suggested something. There has been a suggestion that, maybe, there should be a more organised structure - something like an Institute of Corporate Governance, as has been suggested by some people. Recently, in the U.S., there has been a plethora of legislations after a number of corporate frauds came out, The Corporate Accountability Act has been legislated. We could do something like that.

The third area on which I have a serious worry has not been addressed. It is, after a number of years, the problem of inactive companies and the disappearing companies. There are over 15,000 listed companies. But how many are active? Not more than 1,000-1,500 are actively traded. What are you going to do about de-listing of these companies and the money that is locked-in, particularly the plantation companies, the fly-by-night operators, who came in the wake of 1991 reforms, and defrauded the common man? And, as a result of it, the common man has lost his interest and confidence in the stock market and is not coming back.

There is also a confusion about the number of investors. Nobody seems to know how many investors are there. About the number of investors in the mutual fund, SEBI, in March, 2002, estimated that there are about 30.9 million investors. While the ICAER has estimated that there are only 23 million mutual fund investors. This was 1999 figure. Now, are we

saying that almost 8 million investors have come in the last two years? Similar is the case with regard to investors in equity market. How many investors are there in the UTI? The UTI says that there are about 29 million investors, as of June, 2002. While, the SEBI says that there are about 24.4 million investors, as of March, 2002. Which means, from March, 2002 to June, 2002, almost, 5 million investors have gone to the UTI. It does not seem credible. To avoid this whole thing, a suggestion has been made and is pending before you for creation of "A National Register" which will have complete data of investors and a database could be created. It will have the total profile of the investor and they could be given a permanent folio number.

Madam, there is an urgent need to revive the capital market. One of the suggestions for reviving the capital market has been to virtually lift the ban on borrowing against shares. A limit of Rs. 20 lakhs has been fixed by the RBI. No other capital market in the world has such a limit on lending against shares. If the RBI does not have confidence in shares, it does not allow shares to be used as security against borrowings, how do you expect a common man to have confidence in the stock market? Please resolve this issue also.

There is also a need to discipline brokers. Please stop brokers from playing the market. They should only act as intermediaries and help others in investing; and should not play with their own money, like big scammers did it. It is not allowed in many countries. Please look into it also.

Then comes the question of confidence of investors in the stock market. Today, we are legislating this Bill in order to strengthen the SEBI, so that the confidence of the people increases in the regulator and they come back to the market. That brings me to the point of corporate frauds. There have been major corporate frauds in the West, particularly in the USA -- the Enron fraud, the Worldcom fraud, the Xerox fraud. That had propelled the US Government to immediately act and legislate. Have we acted with such a speed? No. The USA has enacted the Corporate Accountability Act, 2002. The UK has the Office of Serious Frauds. The UK Office of Serious Frauds works so well that almost 71 per cent cases are successful. I think, there is a need for you to consider some special economic offences court. Of course, you are thinking on those lines about starting the Office of Serious Economic Frauds, for large corporate houses and large stock market scams. But, please do it quickly so that the confidence of the people returns.

4.00 p.m.

There is also an issue that in spite of having the SEBI Act, we have had scams. Now, we have strengthened the SEBI. We have given it teeth. Whatever you wanted to do, you have got it. We are supporting what is being done. But in spite of this because of lack of application by the SEBI or irresponsibility on the part of some officers, scams happen. We need to think and discuss about accountability of these regulators, There could be cases where they are genuinely not able to catch the offenders. But if there is irresponsible behaviour, I think, we need to think about fixing the accountability of the SEBI also.

We welcome that certain steps have now been taken with regard to "insider trading". This is a very tricky area. We do not have culture where information about insider trading comes easily. There is, again, a need to look at as to how you are going to actually implement the laws, and punish the guilty people involved in insider trading. Our history has not been very good. Of course, the SEBI had punished some companies, particularly the Hindustan Levers in an insider trading case. But, then, the Appellate Tribunal, the Ministry of Finance, overruled them. This should not happen. Maybe, whistle-blowers think that somebody from inside needs to be protected. A legislation on those lines is also needed, so that not only the Board of Directors, but auditors, the credit-rating agencies, financial advisers who give wrong advice, or purposely and deliberately leak information, are also brought under the net. I am sure, under the rules, you can do that because we are now going to give you powers to prohibit outsider trading.

Now, I come to my last point regarding accounting standards. There are many other points, but I would not take much time of the House. There is a need to line up our accounting standards with the international standards. How will it be done? What role will the SEBI play? What role will the Institute of Chartered Accountants of India will play? We need to clarify all these things. This is an area which we cannot let go. We are now giving you, with this Bill, the power to plug the lacuna which existed in inspection, investigation and enforcement. Policing powers have been increased. I wish these powers are utilized by properly framing rules, through proper selection of Members of the SEBI and Appellate Tribunals, so that you can go to banks, you can see any record, you can keep records with you. Penalties have been increased. All those are welcome. Madam, I will finish my speech by saying that the Government should now complete the agenda on capital market reforms by bringing out legislations

and rules in areas that I have mentioned. With this piecemeal legislation, you will not be able to achieve the purpose that you intend to achieve; that we all want to achieve, that is, the revival of the capital market and bringing back the confidence of small investors. Thank you, Madam.

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH) : Madam, I beg to move:

> "That the Bill further to amend the Securities and Exchange Board of India, Act, 1992, as passed by Lok Sabha, be taken into consideration."

Madam, Deputy Chairperson, the amendments proposed in this Bill are necessary for enhancing the powers of the capital market, to regulate, and to strengthen its management structure, in the light of recent developments. A number of very good points were raised by my friend, Shri Prithviraj Chavan. Of course, I will respond to them at the end of the debate. But, at the moment, a need has been felt for strengthening SEBI in terms of its organisational structure, and, that is why, this Bill addresses these issues. As it has been, we are proposing to empower the Central Government, amongst other things, to grant immunity from any action under the Act or rules or regulations, to a person giving information to SEBI about offences of violation of the SEBI Act. With these words, I commend the Bill to this House.

The questions were proposed.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Madam, I am very happy that, ultimately, a Bill is being brought with many amendments, to provide more teeth to SEBI so that it can tackle irregularities in the capital market and to regulate the security market. The entire country knows that two large scams occurred in this country. One was the Harshad Mehta Scam, which was inquired into, and the Report on which has already been submitted. The other scam is also being inquired into. In this connection, I want to bring to the notice of the august House that Finance Ministers of the post-liberalisation period, that is, from 1990-91 onwards, and persons connected with these Ministries had given an impression that bubbling and buoyant stock markets are true indices of the sound economy of this country. This is a very unfortunate misconception that has developed in this country. Madam, I will quote certain figures which prove this point to be totally wrong. During 1993-97, the industrial growth rate was 8.5 per cent. In 1997-2001, it came down to 4.8 per cent. I am giving you the average percentages of four years. The agricultural growth rate came down from 4.5

per cent to 1.2 per cent. In spite of such a steep fall in agricultural and industrial growth rate, the sensitive index in BSE has gone up to more than six thousand points. It is totally devoid of the strong fundamentals of this economy. And never to SEBI or to the Ministry of Finance has it occurred that an alarming situation had arisen.

[SHRI RAMA SHANKER KAUSHIK in the Chair]

Despite all the prudence of SEBI, and the prudence of the *babus'* in the Ministry of Finance, it never occurred to them that some alarming situation had arisen and that it had to be inquired into. It never occurred to them. They have quoted some scripts in the stock market, "capitalising 400-500 years of profits." One need not wonder if I say that even country's borders cannot remain for 400-500 years. And you want to vouchsafe the profiting capacity of a particular company for 400-500 years. In spite of that, it never occurred to you that something was wrong with the capital market, or, stock market. I am sorry to say that Securities and Exchange Board of India failed to take note of it, as also the Ministry of Finance. The Ministry of Finance may say that since autonomy has been conferred on the SEBI, it cannot interfere in its day to day administration. I would like to bring to the notice of the Government that in spite of the autonomy that has been conferred on the SEBI, inspite of having so many autonomous bodies in this country, still, the concerned Ministries are accountable to Parliament. It is not like the Supreme Court or the Election Commission of this country which are totally independent of the Constitution. We cannot equate SEBI with these bodies. Still, the Ministry of Finance has got powers over the SEBI. It can summon them, it can issue directions to them, and it can formulate policies for them. So, SEBI has to be very vigilant. I don't think these amendments alone will confer more powers on the SEBI. The SEBI should always remain vigilant. It should be more than a watch dog of the capital market. We have given many concessions to the SEBI. There are so many players in the field to attract more investments. We are transforming our economy from a regulated economy to market forces dominated economy. So, every player is free to take advantage of these opportunities or exploit the situation. That is why I am saying that there need to be a very strong and vigilant regulator. Since it was not as vigilant earlier, a lot of scams took place. Those scams proved to be detrimental to the nation, detrimental to the small investors and detrimental to the growth of the economy. Besides this, it totally shattered the confidence of the investors that was reposed in them. I am happy that these amendments will provide more teeth to the SEBI, such as right to call more information,

increasing the level of punishment and call and retain books. It is not that it was lacking such powers earlier. But there was a lack of will on its part to regulate or use even the limited power it had got. Earlier also, it enjoyed the same powers when the sensex went up to 6000. On a similar occasion, earlier also, I was privileged to speak on the same subject. If I weigh 500 kgs, then, definitely, something is wrong with my health. If it is so, I should run to a doctor. But that never occurred to SEBI. When economy was decelerating, industrial growth was going down, how the sensex index went up to 6000? Even a common man will have a doubt that something is wrong with the market of this country. But, unless it is vigilant -- it is a continuous process, whatever the lapses may be, whatever the loopholes may be, whatever the deficiencies you may find in implementing this Act - unless they come to the Government, unless there is a continuous interaction, unless it is endorsed with more powers, people will continue to take advantage of the deficiencies containted in this Act.

Sir, now, I come to the amendments which have been introduced in this Bill. The conviction rate of SEBI is woefully very poor. You have taken a lot of time to enquire about the Videocon, Sterlite, BPL. Its a classic case related to Harshad Mehta's scandal. But they have been set aside by the SAT.

The SEBI has failed to take up the investigations on OCB activities, stating that it is not under the regulation of SEBI. If it is not the responsibility of the SEBI, I do not know whose responsibility it is to enquire about the OCBs. It has not been defined, as a wrong doing, in this Bill. You have classified synchronized deals as wrong, structured deals as wrong, and you have said about so many other things, but, what actually a wrong doing is, has not been defined. The basic issue is, unless you classify a particular thing as an aberration, as a crime by a legislation, you cannot prosecute a person, and he is trying to take advantage of it. Suppose I violate certain traffic rules, but since you have not legislated it as an offence, I cannot be penalised. That is why a lot of deficiencies have taken place in the SEBI Act, and it was prevented from taking action. ...(Time-bell rings)... Sir, you have to give me 3-4 minutes because there are various things about which I have to say.

The SEBI argues that structured deals will obstruct the price discovery. There is no logic in it. It says that it creates artificial volumes. Then, what about a day trader? He is also doing perfectly legitimate business, buys and sells on the same day. So, you cannot prevent him. And, he is creating artificial volumes. There is every possibility of it. It is,

therefore, necessary to be precise in the definition of certain clauses in the Bill.

Another problem in the functioning of SEBI is lack of rigorousness in its investigations. The quality of investigation has to be improved. And, this has led to a very poor conviction rate. The main aspect of this amendment is that markets surveillance should be increased. It is very difficult to comprehend the argument of the SEBI that it is the responsibility of the Stock Exchanges. No; the Stock Exchanges in this country have not been vested with such powers, and they have not reached that level of maturity that SEBI can delegate or transfer its responsibility to them. It is the SEBI's duty to have a surveillance continuously. I would like the hon. Finance Minister to take note of it that surveillance is a very vital thing that SEBI has to be vested with, and the responsibility has to be fixed.

One more thing that I would like to say is this. Of course, this matter has been referred to the JPC and the JPC is inquiring about it, and it is about to submit its report during this Winter Session. Such a scam has occurred in this country, which has rocked the confidence of the small investors, but till now Parliament has not been supplied with a White Paper on this issue, either by the Ministry or by the Regulators.

Sir, I would mention about two more points, and then I would conclude. Since the points are very complicated and technical, I am taking a little more time. One more aspect to which I would like to refer to is about the funding of brokers by corporates, and thus the capital markets. An important loophole in the law has been the inter-corporate deposit route. If the SEBI is given the power to enforce disclosures in the balance-sheets, on details like, from whom the ICDs borrowed, or to whom ICDs lent, by a corporate, not just at the end of the year, but every transaction through the year above a cut-off level, the disclosure should alert investors and analysts on the activities of a corporate, with implication on its stock prices. So, these inter-corporate deposits are playing a lot of havoc. The public has got every right to know about it. The Company management is supposed to publish in the balance sheet at the year-end aggregate deposits. It should not be the case. The case should be every inter-corporate deposit has to be explained in the balance sheet and annexure notes. Then only people will come to know. There is one more aspect. This is with regard to take over bids. Some amendments have been proposed in the Bill giving more powers to SEBI. Sir, it is the practice or it is mandatory on the part of the corporate body, when it is acquiring more than 15 per cent of the shares in the company, it has to go to the public for offering 25 per cent of

the shares. It is correct. Sir, there is a very vital point about preferential allotment, which I want the hon. Finance Minister to take note of. Suppose I am a company and I want to offer 15 per cent to a particular individual. So, he is expected to purchase only 15 per cent. He cannot purchase beyond 15 per cent. As per the rules, you insist that 25 per cent, he has to offer to the public, which he may not be in a position to buy. So, the opportunity of raising that amount is being lost by stipulation. So, this Code has to be amended that when the shares are being allotted on priority by a preferential allotment, the insisting on 25 per cent to the public has to be dispensed with. Otherwise, the company, which is issuing the shares will lose the opportunity of mobilising its fund.

उपसभाध्यक्ष (श्री रमा शंकर कौशिक): अब आप कृपया समाप्त करिए।

SHRI C. RAMACHANDRAIAH: This is the last point, which I want to make. There are a number of points, which I don't want to make now. The market manipulation is the result of shallow markets. So, unless you widen the market, it cannot absorb scams. Scams are usual in so many other countries, all capitalist countries. So, unless you create a wide market, which can absorb these shocks, it is very difficult. Otherwise, even a small scam can rock this entire country. The need of the hour is to increase the width of the market. As on today, capital market resources are 1.5 per cent to 2 per cent of the GDP (time bell). So, there is a necessity to strengthen the widening of the market and ultimately I want that whatever powers you give, the regulators should be continuously vigilant. I do not expect them to be bloodhounds. They have to be watch dog, but, a vigilant watch dog. They continuously have interaction with Ministry. So, whatever the powers they need or whatever the policy that has to be formulated, and avowed objectives of creating this Act have to be achieved, and the Government, the Ministry of Finance will always be accountable to Parliament.

SHRI SANTOSH BAGRODIA (Rajasthan): Mr. Vice-Chairman, I rise to support this Bill, The Securities and Exchange Board of India (Amendment) Bill, 2002 and also seriously object to the procedure, which has been adopted, that is, the route of Ordinances. As my colleague has also mentioned earlier, any fiscal decisions coming through Ordinances do not speak very well. If there was an emergency, I can understand it. But, I do not think, there was really such a serious emergency that we need to have an Ordinance. I hope, this Government will stop ruling the country through Ordinances, at least, in future. Sir, I will compliment and support any action whatsoever, that this Government takes, if it helps the investors;

if it helps the economy of the country; if it helps the smallest depositor in the country. This step, it appears, has been desired to take, so that it helps the smallest investor. But, Sir, a number of scams have taken place during the last few years. The famous, the most famous, was started by Harshad Mehta. Perhaps, this kind of a Bill could have come much earlier. I had no objection. After that, we have Ketan Parikh, Hiten Dalal and so on. Sir, this particular organisation, SEBI, as we call it in short, is for regulating the stock exchange markets. Big investors always have the information in advance. They never have any problem. They always make profit. It is only the small investors, whose number runs into lakhs, are suffering. I am not going into those figures and details, which the two speakers, who spoke before me, have given. Millions and millions of small investors are suffering. That is either because of fraud in the companies or for some insiders trading. For example, in America, where these regulations are supposed to be very up to date, they say that they have all the information technology at their fingertips. But, the worse kind of frauds and insider trading take place in America, and the example of Enron is well-known to everybody in the world. When the company was actually going down, these people have given wrong information not only to their employees, but also to the investors. I wonder whether the hon. Minister is in a position to explain to me how this particular legislation is going to help us in similar circumstances. What is my concern? My concern is, if we have more Enrons in India also, is this legislation going to help us? If not, make more amendments, bring in more legislations, but please save the investors.

What I find in this Bill is, just increase of powers at every stage. We may have more inspector raj. In this world of liberalisation, more inspectors will be appointed. It might sound very contradictory, because, on the one hand, I say bring more legislations; and on the other hand, I say: "Why do you want the inspector raj?" But, having more laws does not mean that we must have inspectors. Laws have to be such that we can implement them without inspectors. I would like to draw the attention of the hon. Finance Minister to one thing. The biggest Scam is going on within the SEBI, Sir. How is it taking place? It is because the directors of the SEBI themselves are manipulating the accounts for their own conveniences. The CAG has given a report stating therein that they are staying in houses paying Rs. 10,000/- per month as rent. But, they are giving advances of Rs.2 crores, 3 crores and 4 crores, and crores of rupees have been given as deposits for the convenience of residences of the directors, because, under the law, they cannot pay more than Rs. 10,000/- as rent. If we have people with this kind of background, with this kind of character,

working in the organization, how can we expect anything good for the country? I will request the hon. Minister to look into this matter very seriously and do something, because, each residential flat of the director costs Rs. 1.25 lakhs, and I think, the number of directors has been increased. So many lakhs will be spent more. I don't mind as long as it is within the law. You, please, bring amendments that each Director will get residential allowance of Rs. 1.25 lakhs, I have no objection. But, if that is the law, that they can spend only Rs. 10,000 or Rs. 20,000 - I know, in Mumbai it may be difficult - but if they themselves are circumventing the laws, how can they catch people who will be circumventing the laws of the entire country? They can be compromised. Sir, Clause 2(a), section 4 says, "the Board may take measures to undertake inspection of any book or register....." I am only reading the operative portion of it, the important portion which I want to refer. Then, the last two sentences of the same clause, *i.e.*, Clause 4, Section 11 of the principal Act, says "to believe that such company has been indulging in insider trading, or, fraudulent and unfair practices relating to securities market." Are we going to believe that this kind of power is not already there with the Board? They already have these powers. This is nothing very special. But, they have to have the will to handle a situation. Does the Board have the will to catch such people who are indulging in this kind of insider trading? Sir, insider trading is not only by Directors of the companies; insider trading in today's world is by the officers, by the managers, and sometimes, this is done in collusion with the Government officers, and also, the officers of the SEBI. What provision do we have in this Bill that anybody who is connected with this kind of insider trading should be booked? What action is going to be taken against officers of the SEBI, or officers of the Government, including the officers of the company involved, and including the officers of the stock exchanges? If all the laws are made only for one type of people, they are not going to be successful, because there will be others who will protest against them in the process. Sir, in the same Clause 4, Section 11, sub-section 4 says : "Without prejudice to the provisions contained in sub-sections (1), (2), (2A), (3) and section 11(B), the Board may, by an order, for reasons to be recorded in writing, in the interests of investors, or securities market, take any of the following measures, either pending investigation, or inquiry, or on completion of such investigation or inquiry, namely, suspend the trading of any security in a recognized stock exchange." All these powers have been taken, but I believe these powers are already there. Only a few commas, full stops, might have been changed here and there. The SEBI, even now, without passing this Bill, can suspend the trading of any security. I believe

so; if I am wrong, you can correct me, Sir. Then I come to section 11(B) of the principal act, sub-clause (b), which says "it may, at any time, by order, in writing, director any person thereafter in this section referred to as the investigating authority specified in the order to investigate the affairs of such intermediary persons associated with the securities market and to report thereon to the Board." It is okay; we have no problem. But I feel these things have come only after so many scams took place, just to divert the attention of the people, just to tell the people of the entire country that we were powerless; so, we could not handle the scams earlier. Again, when some new scams take place, the Government will come back, firstly, with an Ordinance, and, then, with some new amendments, and the things will continue in the same way. When do we expect that these scams will, at least, get reduced, both in volume and number, if not completely vanish?

Sir, I would like to mention that the Government should take a precaution, keeping in view the interests of the companies. The investigating authority can keep, in its custody, any books; it can seize anything, if there is a doubt; I have no objection to that. But, in all fairness, at the time of seizure itself, it must leave photo-copies of the documents it seizes. Whatever the investigation agency might be, whether it is the Income Tax Department or the SEBI, if they seize some documents or some papers, they do not want to give a list or the photo-copies of them. It is not that the document the investigating agency has seized or the institution it has tried to raid, is necessarily wrong. Maybe, some innocent persons are involved because of over-enthusiasm or because of some vested interests. The principle of fairness demands that photo-copies of all the documents seized, under the law, should be given at the time of attachment itself.

Sir, at page 7 of the Securities and Exchange Board of India (Amendment) Bill, 2002, it is stated:

> "For section 15C of the principal Act, the following section shall be
>
> substituted, namely:-
>
> 15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board, in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less."

I think, this is, definitely, what I call it, a draconian provision, because the grievances have to be redressed within the time specified by the Board. The penalty is very high. Sir, for a country like India, the penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less, is very high. I do not say that the grievances should not be redressed, but the time-limit needs to be specified. It cannot be left to the discretion of the Board. They can give some extension, but, at least, a certain time-limit needs to be specified. The Minister should specify a minimum time-limit of three months or six months, or whatever he thinks proper. Otherwise, we are giving too much freedom. They can misuse their discretionary power and favour a few parties, and not others. Sir, I know we are going to pass this Bill today itself. I know the time is running out . Since my friend has covered most of the relevant points, I would only make a request to the Minister. This morning, I read in some newspaper that he is a reluctant Finance Minister. After taking care of the Foreign Ministry for so many years, his heart is still there. I request him to bring his heart to the Finance Ministry. We want him there, and we wish him good luck. I only wish that he brings out even more regulations, not only passing this Bill so that we can have complete safety for the investor. There could be some kind of an insurance for the small investors, say, Rs. 40,00 or 50,000. This may also be considered. There could also be some kind of an insurance against fraud or inside-trading. Because, only today, I saw in the 'Indian Express' that the share price of Mardia Chemicals, which was, sometime back, rupees 122 is just Re. 1 today. So, this is going too far. With these words, I conclude. Thank you very much, Sir, for giving me this opportunity.

श्रीमती सरला माहेश्वरी (पश्चिमी बंगाल) : धन्यवाद उपसभाध्यक्ष जी, मैं 29 अक्तूबर, 2002 को प्रख्यापित भारतीय प्रतिभूति एवं विनिमय बोर्ड संशोधन अध्यादेश, 2002 का निरनुमोदन करने के लिए खड़ी हुई हूं तथा इसके बाद इस विधेयक का समर्थन भी करूंगी । उपसभाध्यक्ष जी, मैं समझती हूं कि अध्यादेशो के औचित्य-अनौचित्य पर विचार किए बिना, मनमाने ढंग से अध्यादेशों को लाना हमारी जनतंत्र की परिपाटी के विरुद्ध है । मैं इसका विरोध करती हूं । हमारी लोकसभा के प्रथम स्पीकर मानलंकर साहब सहित अन्य गणमान्य नेताओं ने अध्यादेशों के विरुद्ध अपनी राय पकट की थी । मैं समझती हूं कि आने वाली सरकारों को भी हमारे देश की उन स्वस्थ परंपराओं का सम्मान करना चाहिए । क्या मैं माननीय मंत्री जी से यह जान सकती हूं कि क्या कारण है कि आपकी सरकार हमारे देश की इन स्वस्थ परंपराओ का कोई सम्मान नहीं कर रही है ? क्या इन स्वस्थ परंपराओं से आपका कोई रिश्ता-नाता नहीं है ? मसलन, इस सेबी अध्यादेश के बारे मे ही मैं माननीय मंत्री से जानना चाहूंगी कि ऐसी कौन-सी आफत आन पड़ी थी कि जब आप बरसो तक सोए रहे तो बीस दिन और सोए रह सकते थे ? बीस दिन में ऐसा कौन-सा पहाड़ टूटने वाला था कि आपको अध्यादेश लाने की जरूरत पड़ी ? मैं यह कहना चाहूंगी कि हमारे माननीय वित्त मंत्री जी इसके बारे मे हमें कोई स्पष्टीकरण नहीं दे सके हैं ।

श्री भारतेन्दु प्रकाश सिंहल (उत्तर प्रदेश): हाउस चले तब तो लाए न ।

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) : हाउस तो चल रहा है ।

श्री पृथ्वीराज चव्हाण : आप जवाब देने वाले कौन हैं ?

श्री नीलोत्पल बसु (पश्चिमी बंगाल): आपकी बुद्धि की ज्यादा आवश्यकता नहीं है हाउस को ।

श्रीमती सरला माहेश्वरी : 1992 में यह विधेयक लाया गया था । इसके बाद अनुभवों के जरिए इस विधेयक मे और संशोधन किए गए । अभी फिर से यह संशोधन के लिए हमारे सामने पेश किया गया है । अभी भी हम दावे के साथ नही कह सकते कि यह संशोधन अंतिम है। आगे भी हम संशोधन की ओर बढ़ेगे । संशोधन की ओर इसलिए बढ़ेगे क्योंकि पूंजी के बाजार को नियमित, नियंत्रित करने के लिए सेबी की तरह की, एक रेग्युलेट्री अथारिटी की तरह का हमारा अनुभव बिल्कुल नया अनुभव है । उपसभाध्यक्ष जी, सेबी का सांगठनिक ढांचा, उसका संस्थागत ढांचा, उसके अधिकार किस तरह के होगे, इस संबंध में मैं समझती हूं कि हम अभी बहुत ही इवोल्यूशनरी स्टेज में हैं, बहुत ही प्रारंभिक स्टेज में हैं इसलिए हमे आगे भी अपने अनुभवो से सीखना पड़ेगा । मैं यह बात जोर देकर इसलिए कहना चाहती हूं क्योंकि दस वर्ष पहले जब सेबी का गठन किया गया था तो गठन करते समय हमारे देशवासियों को मोहक सपने दिखाए गए थे कि देखिए, अब शेयर बाजार को नियंत्रित करने के लिए सेबी की तरह की एक संस्था आपके सामने है । भारत के जो लाखों-करोड़ों छोटे-छोटे निवेशक हैं, उन्हें अब चिंता करने की कोई जरूरत नहीं है । यह सेबी नाम की संस्था शेयर बाजार में होने वाली तमाम धांधलियो, तमाम उठा-पटक पर नियंत्रण रखेगी । आप दिल खोलकर शेयर बाजार में आइए और अपना पैसा लगाइए । लेकिन उपसभाध्यक्ष महोदय, भारत मे शेयर बाजार का हमारा अनुभव क्या है? विगत 10-12 वर्षो का हमारा अनुभव दिखाता है कि सरकार ने क्या किया। अल्प बचत पर ब्याज की दरो को कम कर दिया और शेयर बाजार के बारे में, निजी पूंजी के बारे मे, निजी उद्यमों के बारे में लोगों के दिलों-दिमाग में असंख्य रंगीन सपने पैदा किए ताकि भारत के करोड़ों लोगों की जो मेहनत से कमाई पूंजी है उस पूंजी को ये शेयर बाजार की ओर आकर्षित कर सकें। इसका परिणाम यह हुआ कि शेयर बाजार का आकार बेइन्तिहा बढ़ गया। 1980-81 के जमाने में जहां शेयर बाजार में रोजाना सिर्फ 13 करोड़ का औसतन टर्न ओवर होता था वह नब्बे के दशक में 4 अरब रुपये तक औसतन टर्न ओवर में परिवर्तित हो गया। निवेशकों की संख्या में 20 से 25 गुनी वृद्धि हो गयी। शेयर बाजार में लिस्टेड कंपनियों की सूची भी बढ़ गयी। विदेशी संस्थागत निवेशकों का निवेश भी 5-6 वर्षों में 4.3 बिलियन डालर से बढ़कर लगभग 1700 बिलियन डालर तक चला गया। मुम्बई के स्टाक एक्सचेंज में लन्दन स्टाक एक्सचेंज के बराबर सौदे होने लग गए यानी शेयर बाजार का आकार प्रकार उदारतावाद की नीतियों के कारण काफी बढ़ गया। लेकिन इससे शेयर बाजार की अस्थिरता मे कोई फर्क नहीं आया।

उपसभाध्यक्ष महोदय, इकोनामिक एंड पोलिटिकल वीकली के एक अंक में मैंने अभी देखा कि दो शोधार्थियों ने हमारे देश के शेयर बाजार के विकास पर एक अध्ययन किया और अध्ययन करने के बाद उन्होंने एक निष्कर्ष निकाला। वे बताते हैं कि भारत का शेयर बाजार उदारतावाद की आर्थिक नीतियों के शुरू होने के बाद काफी तेजी से अपने आकार प्रकार में बढ़ गया, लेकिन जहां तक उसकी वोलेटिलिटी का सवाल है उसमें कहीं कोई फर्क नहीं आया। उदार आर्थिक नीतियो के पहले वह जिस तरह से चल रहा था उदार आर्थिक नीतियों के बाद भी वह

उसी तरह से चलता रहा। फर्क सिर्फ इतना आया कि यदि पहले सैकड़ों करोड़ के घोटाले होते थे तो अब हजारो करोड़ के घोटाले होने लगे। न तो इन्साइडर ट्रेडिंग में कोई फर्क आया न ही दलालों की मैन्यूवरिंग और मैनीपुलेशन में कोई फर्क आया। 1991 में हर्षद मेहता कांड हुआ जिसका सभी ने उल्लेख किया। उसके बाद डिबेंचर डिबेकल हुआ जिसमें 5 हजार करोड़ का घोटाला हुआ। 5-6 हजार करोड़ रुपया लेकर प्लांटेशन कंपनियां उड़ गयीं। इसके बाद नान-बैंकिंग फाइनेंस के घोटाले मे 10 हजार करोड़ का वारा-न्यारा हुआ। फिर केतन पारिख का कांड हम सभी जानते हैं कि किस तरह से इस दलाल ने एक समय में हमारे बैंकों से 12 हजार करोड़ तक उधार लिया था और किस तरह से शेयर बाजार में घोटाला हुआ। पिछले साल के मार्च महीने मे इन्फोटेक कंपनियो के दामो में जो उतार-चढ़ाव हुए उनमे 1,84,000 करोड़ का घोटाला किया गया। माधोपुरा मर्केन्टाइल कारपोरेशन बैंक तथा बैंक आफ इंडिया के घोटाले हम सभी जानते हैं। जिस सेबी को रक्षक की भूमिका दी गयी, वह सेबी किस तरह से भक्षक की भूमिका निभा रहा था यह भी हमारे सामने आ गया।

आज सच्चाई यह है कि छोटे छोटे निवेशकों के निवेशों की कोई सुरक्षा नहीं है। वैनिशिंग कंपनियो के बारे में आज तक सेबी कोई भी निर्णय नही ले सका है। मुम्बई स्टाक एक्सचेंज ने अभी बताया कि 900 के करीब इस तरह की कंपनियां हैं जिनके बारे में सेबी आज तक कोई निर्णय नहीं ले पाई है। तब उपसभाध्यक्ष महोदय, सवाल उठता है कि निवेशको के हितो की रक्षा कौन करेगा। विदेशी पूंजी निवेशकों के कारण एक बड़ा फर्क यह आ गया है कि अब भारत का शेयर बाजार विदेशी पूंजी के इशारे पर चलने लगा है तथा शेयर बाजार की वोलेटिलिटी से आम निवेशको को जो नुक्सान उठाना पड़ता था वह धन अब हमारे देश में न रहकर विदेश चला जा रहा है। आज की दुनिया में बड़े पैमाने पर विचरण कर रही सट्टेबाज पूंजी जिसे स्पेकुलेटिव पूंजी के नाम से जाना जाता है, और हमारे शेयर बाजार इस स्पेकुलेटिव पूंजी के जरिए हमारे देश की जनता के धन को लूटने का एक जरिया बन गए हैं।

उपसभाध्यक्ष महोदय, इस सेबी संशोधन विधेयक पर मैं इस पूरे प्रसंग को इसलिए उठाना चाहती हूं कि 1992 में जब यह विधेयक लाया गया था तो उस समय भी मुझे इस पर बोलने का मौका मिला था और तभी मैंने यह आशंका प्रकट की थी कि सेबी नामक इस संस्था का गठन सिर्फ एक धोखे की टट्टी खड़ी करने के लिए किया जा रहा है ताकि हमारे देश के आम लोगों की खून पसीने की कमाई को शेयर बाजार की ओर खींचने के लिए प्रेरित किया जा सके और भारत के पूंजीपतियों को आम जनता की पूंजी पर हाथ साफ करने का एक और मौका दिया जा सके। महोदय, उसी समय सेबी की तुलना मैंने हाथी के दिखावे के दांत से की थी और कहा था कि पूंजीपतियों की हितैषी सरकार से हम यह कभी भी आशा नही कर सकते कि वह सेबी की तरह की रेगुलेटरी संस्था का इस्तेमाल पूंजीपतियों के हितों के विरुद्ध करेगी । यह सिर्फ आम जनता को बरगलाने की एक चमत्कारी कोशिश भर थी । 1992 के बाद के बीते इन दस वर्षों में मेरी वे तमाम आशंकाएं सही साबित हुई हैं और मैं समझती हूं कि आप जो यहां बैठे हैं वे सभी इस बात को स्वीकारते होगे । उपसभाध्यक्ष महोदय, आज यदि कोई भी भारत के छोटे-छोटे निवेशको के बारे मे सर्वेक्षण करवाए तो यही पता चलेगा कि पिछले दस वर्षों में शेयर बाजार के जरिए उनकी मूल पूंजी में कटौती ही हुई है और कितने लोग दिवालिया हो गए हैं । महोदय, जो भी हो, दस वर्ष बाद जब खुद यह सरकार सेबी के सांगठनिक ढांचे और उसकी क्षमता में वृद्धि के लिए यह संशोधन विधेयक लेकर आई है तो यह संशोधन अपने आप मे इस बात का प्रमाण है कि किस तरह से सेबी नकारा और अप्रभावी रही है ।

उपसभाध्यक्ष महोदय, सेबी की उपलब्धियों के नाम पर जो बताया जाता है कि अब किसी भी परियोजना को जारी करने से पहले उस परियोजना के साथ जुड़ी हुई जो जोखिम है उसको भी आपको बताना पड़ेगा । लेकिन मैं यह कहना चाहूंगी कि शेयर बाजार की अंधी दौड़ में यह जोखिम की जो चेतावनी है उसका महत्व सिर्फ इतना ही है जितना कि महत्व सिगरेट के आदी हो चुके आदमी के लिए सिगरेट की डिब्बी पर लिखी हुई वैधानिक चेतावनी, इससे ज्यादा इसका और कोई महत्व नहीं है । महोदय, सेबी के इन दस वर्षों के काल में सुधार के नाम पर यदि कुछ हुआ है तो वह यही कि अब विदेशी संस्थागत निवेशक सेबी में अपना पंजीकरण करा कर भारत के शेयर बाजारों में आराम से अपना खेल खेल सकते हैं और यदि कोई भारतीय कंपनी चाहे तो वह भी जीडीआर्स के जरिए विदेशी बाजार में अपनी पूंजी लगा सकती है । इसके अलावा भारत के शेयर बाजारों में एनआरआई के निवेश को भी आसान कर दिया गया है यानी वास्तविक अर्थों में जो हासिल हुआ वह यह कि विदेशी पूंजी के लिए सारे खेल को आसान बना दिया गया है । दुनिया के जिन देशों में भी आर्थिक उदारतावाद की नीति को अपनाया गया है, सभी देशों में भारत की तरह ही शेयर बाजार काफी मोटा हो गया है और इसकी मूल वजह विदेशी पूंजी का अबाध आवागमन रहा है । महोदय, विश्व पूंजीवाद का यह मौजूदा दौर अपने पहले के पूंजीवाद के दौर से अगर किसी मायने में भिन्न है तो वह इस मायने में है कि आज वित्तीय पूंजी अधिक से अधिक स्पैकुलेटिव पूंजी का रूप लेती जा रही है, इस स्पैकुलेटिव कैपिटल के लिए सभी रास्तों को आसान बनाने के लिए आईएमएफ और वर्ल्ड बैंक के द्वारा तीसरी दुनिया के देशो पर दबाव डाला जा रहा है और हम भारत के लोग भी इस दबाव के शिकार हो रहे हैं । पिछले दस वर्षों का सेबी का दौर यदि पहले के वर्षों से किसी मायने में भिन्न है तो सिर्फ इस मायने मे कि भारत में विदेशी पूंजी का आवागमन तेज हुआ है और इस काम को करने में सेबी की कोई भूमिका नहीं है, यह विश्व बैंक की ढांचागत समायोजन की नीतियों का परिणाम है । इसलिए भारत के शेयर बाजार में सेबी की अब तक की भूमिका हाथी के दिखावे के दांत की ही रही है, इस बात को एक बार फिर मैं रेखांकित करना चाहूंगी ।

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) : आप कृपया समाप्त करें ।

श्रीमती सरला माहेश्वरी : बस, दो मिनट और लेना चाहूंगी । आज हमारे वित्त मंत्री अध्यादेश के जरिए सेबी को मजबूत करने की बात का प्रस्ताव लेकर आए हैं । इसके जरिए वह सेबी को कई अधिकार देना चाहते हैं कि वह किसी भी कंपनी अथवा दलाल के खातों अथवा दस्तावेजों को जब्त कर सकती है, जरूरत पड़े तो वह उन्हें अपने अधिकार में ले सकती है, उनकी छानबीन कर सकती है । इसके लिए एक इनवेस्टीगेटिंग अथारिटी के गठन की बात कही गई है तथा सेबी की सांगठनिक क्षमता को बढ़ाने, उसके बोर्ड ऑफ़ डायरेक्टर्स के सदस्यों की संख्या भी बढ़ाने की बात कही गई है । लेकिन महोदय, मजे की बात यह है कि सेबी एक्ट में पहली बार इन्वेस्टीगेटिंग अथारिटी का नाम आता है लेकिन कहीं भी इसकी व्याख्या नहीं की गई है कि यह किस तरह की होगी, इसके सदस्यों को अधिकार क्या होंगे, योग्यता क्या होगी । यहां तक कि सदस्यो की योग्यता क्या होगी इसको भी परिभाषित नहीं किया गया है । वित्त मंत्री जी सेबी को और अधिकारो से सुसज्जित करना चाहते हैं लेकिन मैं यह जानना चाहूंगी कि क्या कोई सेबी की जवाबदेही है या नहीं ? अगर सेबी की जवाबदेही आप नहीं रखेंगे तो जो सेबी आज तक हमारे शेयर बाजार में जो तमाम धांधली होती रही है उनको नियंत्रित नहीं कर पाई, उस सेबी की जवाबदेही की भी बहुत जरूरत है। इसलिए "सेबी" की जवाबदेही की भी बहुत जरूरत है ।

उपसभाध्यक्ष महोदय, एक उदाहरण टेक-ओवर कोड से जुड़ा देना चाहूंगी और वित्त मंत्री जी को बताना चाहूंगी कि वर्ष 1994-95 में "सेबी" का टेक-ओवर कोड आया, फिर एक कमेटी बनी और उस से कहा गया कि आप 6 महीने में अपनी रिपोर्ट देंगे । लेकिन 6 महीने के बजाय वह रिपोर्ट 6 वर्ष के अंदर आई । उपसभाध्यक्ष महोदय, इस दौरान टेक-ओवर के कई मामले आए, लेकिन "सेबी" ने एक भी उदाहरण ऐसा पेश नहीं किया कि वह आम निवेशकों के पक्ष में कोई कदम उठा पाती । इसलिए मेरा वित्त मंत्री जी से यह सवाल है कि वित्त बाजार में रेगुलेटरी अथॉरिटी का उद्देश्य क्या है ? वह निवेशकों के हितों की रक्षा करेगी या उद्योगपतियों के हितों की रक्षा करेगी ? अगर उद्योगपतियों के हितों की रक्षा उसकी प्राथमिकता है तो यह तयशुदा बात है कि वह कभी भी अच्छे और बुरे उद्योगपतियों के बीच में, सही और वैनिशिंग कंपनियों के बीच में फर्क नहीं कर पाएगी और उड़न-छू कंपनियां इसी तरह हमारे बाजार को लूटती रहेंगी । इसलिए जरूरी है कि "सेबी" मुख्य रूप से किस के हितों की रक्षा करेगी, इस बारे में स्पष्टता रहे ।

उपसभाध्यक्ष महोदय, जनता का संचित धन ही, अगर उस का उपयोग किया जाए, किसी भी राष्ट्र के निर्माण का मूल आधार होता है, लेकिन यदि वह धन अबाध रूप से विदेश जाने लगे, मॉरीशस रूट की तरह सेंधमारी होने लगे तो उस से देश की दरिद्रता बढ़ती है । इसलिए "सेबी" को मजबूत किया जाए, लेकिन इसलिए नहीं कि वह घांधलीबाजों, दलालीबाजों, उड़न छू कंपनियों और मॉरीशस रूट वाले हितों की रक्षा करे बल्कि इसलिए कि यह भारत के आम निवेशकों के हितों की रक्षा करे । धन्यवाद ।

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) : श्री पी.जी. नारायणन ।

SHRI P.G. NARAYANAN (Tamil Nadu): Sir, I welcome the Securities and Exchange Board of India (Amendment) Bill, 2002. The Securities and Exchange Board of India Act, 1992 was enacted to provide for the establishment of a Board to protect the interests of investors in securities and to promote and regulate the development of securities market.

The new amendments would definitely improve the organisational structure and institutional capacity. These amendments would strengthen the mechanisms available to the SEBI for investigation and enforcement so that it is better equipped to investigate the malpractices.

It is a welcome move which will definitely address the long-standing problems of the vibrant capital market and will protect the interests of the investors.

It has got some other striking features also. Calling for information and record from any bank or other authority, or a board, or a corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which are under investigation or inquiry by a board, would not only protect the investors but would facilitate to have a vibrant market.

The new amendments would give teeth to the SEBI to direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation.

The SEBI would have powers to impose deterrent fine up to Rs. 25 crores or three times the undue profit derived by committing offences, whichever is higher.

The quantum of fine would go up from the present range of Rs.5,000/- to Rs. 5 lakhs and from Rs. 1 lakh to Rs. 25 crores or even more. All the amount realised by the SEBI by way of penalties would go to the Consolidated Fund of India which would definitely help the exchequer. Sir, the other striking feature is amending the composition of the Securities Appellate Tribunal. This will help the speedy disposal of cases and facilitate easy justice to the investors. The bold initiative of enhancing the penalties will definitely prohibit malpractices, manipulative and fraudulent trade practices and insider trading to the maximum extent. The major thrust here is that Government should implement the provision in letter and spirit to further strengthen the mechanism of investigation and enforcement to protect the capital market and interests of investors. Thank you, Sir.

[THE DEPUTY CHAIRMAN in the CHAIR]

SHRI R.SHUNMUGASUNDARAM (Tamil Nadu): Thank you, Madam. Madam, I rise to support the Securities and Exchange Board of India (Amendment) Bill, 2002, which has been introduced by the hon. Finance Minister after experimenting with the parent Act for about 10 years. It is better late than never. These amendments are aimed at further strengthening the intention of the original Act, the parent Act, which is for the protection of investors. The SEBI has to be watchful; otherwise, the interest of the small investors will be bulldozed. Therefore, these amendments have been brought forth to strengthen the investigative mechanism. But, there are certain clarifications, I want to seek from the hon. Minister. There is an investigative authority provided under the new amendment, the constitution of that authority, the investigating authority, has not been specified. I expect the Minister to clarify on the composition of the investigating authority. As the hon Member, Mr. Prithviraj Chauhan, informed this House serious fraud Office of the United Kingdom, which has the composition of financial experts, as well as from the police. Some provision on that line must be introduced for effective investigation and that will really be a welcome relief. The investigating authority will be having a

5.00 p.m.

role, which will be in addition to the police investigation. And, therefore, whatever has been contemplated for the attachment of the bank account, etc., for one month period as per the clause 11(4), sub-clause (e) will be actually redundant, once the investigation is taken over by the police. The police investigator will be having an attachment separately; and if the investigating authority of the Board is going to have one-month attachment of the bank accounts, and other property, after the lifting of attachment, the police will once again take it over by attaching the accounts. During this interregnum period, the person accused could operate and manipulate the accounts. It should be clarified in what manner this attachment, which is provided to the investigative machinery, is going to be effective. Like that, Madam, there are other provisions, such as Section 24(A) which is for compounding and 24(B) for immunity from prosecution. These two provisions are really welcome, because the Board is going to get the best of evidence from a person who is involved in the violation promised of immunity, if he is going to make true and full disclosure of all the relevant information. And, for taking evidence, there is no separate procedure prescribed for investigation, except the powers that are given? In what way the investigations of the Board are going to be different from the police investigation. That must be clarified. With these words, I support the Bill. Thank you, very much.

THE DEPUTY CHAIRMAN: Mr. Prithviraj Chavan, do you want to say more?

SHRI PRITHVIRAJ CHAVAN: No, Madam.

THE DEPUTY CHAIRMAN: Mr. Minister.

SHRI JASWANT SINGH: Madam Deputy Chairperson, I am grateful to the hon. Members for the issues they have raised. I will endeavour to respond to as many of them as I can.

Madam, I agree with the prominent observation made by almost every hon. Member who participated in the discussion, that the route of Ordinance is not a proper route. I too agree that it is not a route that the Government should adopt lightly, that it is only when we are compelled by circumstances, when the circumstances are such that not bringing an Ordinance would result in significant economic or commercial difficulty that we should adopt it. In this particular case, a number of appellate tribunal decisions had been taken which created a sense of urgency. If we hadn't

acted in time in bringing an Ordinance, it was possible that it would have caused an avoidable erosion to the functioning of the SEBI and such other regulatory bodies, because, -- I had shared this view earlier also -- there is one absolutely fixed principle on which I am working, and it is that 'the freer the market, the stronger the regulator'. It is impossible to have a free market economy without a very strong and a very effective regulator. And, every endeavour that we make is to make the regulators more and more effective, not really as policemen, but as effective regulators, and that is the underlying philosophy in this particular step also.

The other broad question that arose, which hon. Shri Chavan has also raised was about de-mutualisation. We already have the Kania Committee Report which in fact, is quite advanced, and when I was in Mumbai, I had given an assurance that we would implement it, and we are very close to implementing it now. That is why the observation that brokers themselves should not be actually trading, is perfectly valid. There have to be three separate functions of brokering, trading, and ownership, that is, corporatisation. That is what de-mutualisation is really said to be about. We are moving towards it. And, I think, the SEBI reform process will, in fact, accelerate it.

The third is about the serious frauds office. As the hon. Members know, soon after I got this responsibility, in the case of banking, I proposed that there ought to be a Lenders' Responsibility Bill. Also, with my experience here, over the passage of time, -- I have the benefit of working in Parliament now for over six terms -- I can say that the complexity of commercial fraud is now such that it is simply not possible for only the CBI or one investigative agency to address it effectively. The CBI, originally, had its root as an anti-corruption organisation. That is, essentially, where its ethos and its specialisation lies. But corporate frauds are now in such a complexity that we need altogether a different and a highly specialised body which will cover all aspects of corporate fraud from money and other activities. I have initiated the move to have Serious Frauds Office. For that considerable groundwork has already been done and I hope to be able to bring forward a legislation to that effect, at least, introduce the legislation, possibly, during this Session itself, failing which, certainly, in the next session. We will benefit when Members of the Standing Committee contribute their views to its improvement, but I am committed to having a Serious Frauds Office in the shortest possible time. As far as the individual observation made by hon. Shri Santosh Bagrodia is concerned, he spoke very kindly about my heart being somewhere else. I do not know where he

read about my heart not being on my job. My heart is very much on my job. My heart is with my body and my body is with my heart.

THE DEPUTY CHAIRMAN: He might be meaning that it is with your wife.

SHRI JASWANT SINGH: I am saying, my heart is on my job.

THE DEPUTY CHAIRMAN: As long as your mind is on the job, it is enough.

SHRI JASWANT SINGH: Both are there. There was an observation made by him about clause 4. The powers to suspend trading, etc. and restraining from excess to market, these are not specifically provided for in the SEBI Act and SEBI was issuing orders, direction under section 11 (b) of the Act and that is why many of the SEBI orders have been challenged and set aside by the Securities Appellate Tribunal, as also by courts. Now, these provisions are being specially provided for, including new provisions for impounding proceeds, for suspending office-bearers of the stock exchanges, attaching bank accounts, etc. That is why, we have done it. About clause 9, this is really for investor agreements, because of high penalty being provided. Yes, it is a very high penalty, as against the earlier provision, which was Rs.10,000 a day. But, this is very serious because if investor is being cheated, if the penalty being paid, it ought to be really deterrent against Rs.10,000 per day. We are raising or enhancing the penalty to Rs. 1 lakh per day, or, Rs. 1 crore, whichever in that case becomes less. This is really with a view to providing deterrence. Along with general points, another important point was made by hon. Shri Prithiviraj ji,"What happens if there is a vacancy in the Appellate Tribunal, does the Appellate Tribunal cease functioning?" No, Sir. It continues, because it can frame its own rules and provisions in regard to quorum. "Why is SEBI being strengthened after ten years?" It is very difficult for me to answer -- why this ten years gap has taken place. But, it was amended in 1995 once and we felt the need to do so now. And we are doing it. You have raised the point on insider trading; and some other Members also spoke on the same subject. The Insider trading is now being defined explicitly in the Bill. The existing penalty for insider trading was Rs.5 lakhs and we are now raising it to Rs.25 crores or five times the amount involved for insider trading, whichever is higher, not whichever is lower. So, to the extent that is humanly possible we are making it as deterrent as possible. Hon. Member, Shri Ramachandraiah had spoken about the SEBI and it has not taken action against violators of the Act, rules or regulations. I do not

wish to go into the statistical reply of this. But, since inception, the SEBI has directed the 548 entities to refund the money collected through the Collective Investment Scheme. They have also been debarred from operating in the capital market. Prosecution proceedings have been launched against 132 entities. Ninety-two so-called vanishing companies have been debarred from any further access to or operation in capital markets, and, in 17 cases, prosecution proceedings have been launched for insider-trading. Besides, punishment for insider-trading has been provided in the Bill, as I have explained just now. So far as the White Paper on market regulations is concerned, as the hon. Member knows, the Joint Parliamentary Committee is engaged in examining all these things. Therefore, let us await the report of the JPC, and then we shall address this aspect. The hon. Member, सरला जी ने कहा कि यह अमेंडमेंट बहुत सडन है और इंवेस्टीगेटिंग आथॉरोटी के बारे में आपने भी पूछा। Some other hon. Member also asked about the investigating authority. The investigating authority may be appointed by the Board itself, but there should be adequate safeguards, and it should not be arbitrary. The Companies Act and the Income-tax Act have provisions for appointment of such an authority, and, since there are precedents, we are doing it in this legislation. सरला जी ने यह भी जानना चाहा कि जो सेबी बोर्ड के मेंबर हैं उनकी क्वालिफिकेशन क्या है। The parent Act provides for the qualifications. They shall be persons of ability, integrity, standing and capacity in dealing with problems relating to security markets, with special knowledge and experience of law, finance, economics, accountancy, administration, etc.

श्री संतोष बागढोदिया : जो हाऊसिंग प्रोब्लम है डायरेक्टर्स की वह मैंने रेज किया था। आपने अभी डायरेक्टर की बात कही इसलिए मैंने कहा है।

श्री जसवंत सिंह : अन्य कई सुझाव आए हैं। बहुत महत्वपूर्ण सुझाव हैं। माननीय सदस्यों के जो भी सुझाव हैं सरकार उन पर पूरा ध्यान देगी। इंक्लूडिंग हाऊसिंग समस्या के बारे में आपने कहा, कई सुझाव सरला जी के हैं।

श्रीमती सरला माहेश्वरी : सेबी की जवाबदेही के बारे में, उसकी एकाउंटेबिलिटी के बारे मे भी?

श्री जसवंत सिंह : सेबी की जवाबदेही है जैसे किसी संस्था की जवाबदेही बनेगी। अपने आप में सेबी जवाबदेह है वित्त मंत्रालय को और वित्त मंत्रालय जवाबदेह है संसद को। मुझे इसमें तनिक संदेह नहीं है। मुझे पूरा विश्वास है, ईश्वर न करे यदि वित्त मंत्रालय कहीं ठोकर खा गया तो आप हमारी सफाई लेने में बिल्कुल नहीं चूकेंगी। यही हाल सेबी का होने वाला है। मैं पूरा विश्वास दिलवादूं।

With these words, Madam, I commend the Bill to the House.

THE DEPUTY CHAIRMAN: Mr. Chavan, are you pressing your Resolution now?

SHRI PRITHVIRAJ CHAVAN: I am not pressing, Madam.

THE DEPUTY CHAIRMAN: Hon. Members, does the hon. Member has the permission of the House to withdraw his Statutory Resolution.

[The Statutory Resolution was, by leave, withdrawn.]

THE DEPUTY CHAIRMAN: I shall now put the motion moved by Shri Jaswant Singh to vote.

The question is:-

> "That the Bill further to amend the Securities and Exchange Board of India, Act, 1992, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up the clause-by-clause consideration of the Bill.

Clauses 2 to 32 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JASWANT SINGH: Madam, I move:-

"That the Bill be passed."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: There is a message from Lok Sabha. Secretary-General.

MESSAGE FROM LOK SABHA

THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT BILL, 2002

SECRETARY-GENERAL: Madam, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:

> "In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Supreme Court Judges (Salaries and Conditions of